IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICITON

WRIT PETITION NO. 9371 OF 2007

Arvind Bhanushali ...Petitioner

V/s.

Mumbai Agriculture Produce
Market Committee, Mumbai, & Ors. ...Respondents

Ms. Jeristin Sidhwa i/by Mr. S.C. Shah for the Petitioner

Mr. N.N. Bhadrasete for the Respondents.

CORAM: **J.N. PATEL, AND**
SMT. NISHITA MHATRE, JJ.
DATE: **DECEMBER 19, 2007**

P.C.:-

1. The petitioner has approached this Court with a grievance against the Mumbai Agriculture Produce Market Committee (APMC), i.e., respondents No. 1 and 2, in respect of seizure of vehicle bearing No. MH 43F 1103, which is a motor truck carrying goods.

2. It is the case of the petitioner that respondents No. 1 and 2 may be directed to release the vehicle and the goods to the petitioner, as he has paid the dues. The petitioner also claims that the

respondents be saddled with damages at the rate of Rs.5,000/- per day till the vehicle and the goods are released.

3. On the other hand, the learned counsel appearing for the respondents submits that as the dues of the APMC were not paid, the vehicle has been rightfully detained along with the goods; and as soon as the petitioner pays their dues, the vehicle will be released. He has brought to our notice the letter received from the petitioner on 22nd November, 2006, in which, according to the respondents, the petitioner has admitted non-payment of dues.

4. It is submitted by the learned counsel for respondents No. 1 and 2 that as soon as the dues are paid, the vehicle and goods would be released forthwith.

5. The learned counsel appearing for the petitioner refutes all the contentions made on behalf of respondents No. 1 and 2.

6. In our view, it will be proper that the petitioner pays the dues of respondents No. 1 and 2 as demanded, under protest, and

seek alternative remedy available to him under law.

7. The learned counsel for the petitioner submits that she would instruct her client to pay the dues under protest. The learned counsel for respondents No. 1 and 2 says that the respondents would accept the money even if paid under protest and give proper receipt, and release the vehicle and the goods.

8. We make it clear that this would not necessarily mean that the respondents are liable for damages.

9. We are not deciding the issues and contentions raised in the petition, which can be sorted out in the alternative forum available to the parties.

10. We, therefore, dispose of this petition with a direction to respondents No. 1 and 2 that in case the petitioner pays the dues under protest, the same may be accepted and the vehicle and goods be released, without prejudice to the rights of the parties.

J.N. PATEL, J.

SMT. NISHITA MHATRE, J.